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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,442	06/19/2000	Matthew R Perkins	CM03017J	4005

7590

11/16/2004

James A Lamb
Motorola Inc
Intellectual Property Section Law Department
8000 West Sunrise Boulevard
Ft. Lauderdale, FL 33322

EXAMINER

LY, NGH I H

ART UNIT	PAPER NUMBER
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2686

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DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/596,442

Applicant(s)

PERKINS ET AL.

Examiner

Nghi H. Ly

Art Unit

2686

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-18.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). Marsha D. Banks-Harold
10. ☐ Other: _____

MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 08/23/2004 have been fully considered but they are not persuasive.

On pages 5 and 7 of applicant's remarks, applicant argues that Corregan can not be combined into the system of Ishikawa.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to do so found in the references themselves so that the remote terminals may thus be grouped according to channel quality (see Corregan, column 12, lines 44-45). In addition, applicant's attention is directed to the rejection of claim 1 in the previous Office action dated 07/26/2004.

On pages 6 and 7 of applicant's remarks, applicant argues that non of the cited references, Ishikawa, Corregan or Cook, taken individually or combination teaches or suggest "reconfiguring the grouping of radios based on a communication connection statistic".

The examiner, however, disagrees. As indicated in the previous Office action dated 07/26/2004 that Ishikawa or Corrigan does not specifically disclose reconfiguring the grouping of radios. However, since the *distances, the moving directions, and the moving speeds of the mobile station* (see Ishikawa, column 22, lines 18-22) in the system of Ishikawa varies at time, it would have been obvious to one of the ordinary skill in the art to modify Ishikawa such that the group of mobile units are reconfiguring, so that the groups can be associated with the *changing distances, the moving directions, and the moving speeds of the mobile station*. In addition, claim 1 fails to further define what a communication connection statistic is. Therefore, the combination of Ishikawa, Corregan indeed teaches applicant's claimed limitation with the broadest reasonable interpretation. In addition, applicant's attention is directed to the rejection of claim 1 in the previous Office action dated 07/26/2004.

For the above reasons, the examiner believes that the rejections to claims are proper.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2686

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

Udho
11/09/04